

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
ON APPEAL FROM THE EXAMINER TO THE BOARD
OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Ratinder Paul Ahuja, et al.
Serial No.: 10/816,422
Filing Date: March 31, 2004
Group Art Unit: 2179
Confirmation No.: 8851
Examiner: Phenuel S. Salomon
Title: Graphical User Interface for Capture System

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPEAL BRIEF

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No Authorities Noted at this Time

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Dear Sir:

APPEAL BRIEF

Appellant appeals to the Board of Patent Appeals and Interferences from the decision of the Examiner sent on January 4, 2011, finally rejecting Claims 1-5, 25, and 27-33, which are pending in this case. Appellant previously filed a timely Notice of Appeal on December 1, 2010.

I. REAL PARTY IN INTEREST

This Application is currently owned by the Appellant, McAfee, Inc., 3965 Freedom Circle, Santa Clara, California, 95054, by virtue of an assignment recorded on January 26, 2009 at Reel 022214, Frame 0151.

II. RELATED APPEALS AND INTERFERENCES

There are no known appeals or interferences, which will directly affect or be directly affected by or have a bearing on the Board's decision regarding this appeal.

III. STATUS OF CLAIMS

Claims 1-5, 25, and 27-33 are pending in this Application. Claims 1-5, 25, and 27-33 stand rejected pursuant to the Advisory Action dated January 4, 2011, and are presented for appeal. Claims 6-21, 26, and 34 were previously cancelled. Claims 22-24 were previously withdrawn. All pending claims are shown in Appendix VIII.

IV. STATUS OF AMENDMENTS

All amendments were previously entered and no new amendments were made after the Advisory Action mailed January 4, 2011.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Set out below are the Independent Claims with the material facts relevant to the rejections on appeal supported by reference to a specific page number, paragraph number, and drawing numerals.

1. A method comprising:

presenting a graphical user interface (GUI) [see, for example, **FIGURES 8-17: elements #706, #708, #710, etc. and the Specification at paragraphs 50-53**] for a capture system [see, for example, **FIGURES 2-3: element #22, and the Specification at paragraphs 28, 31-32**], wherein the GUI comprises one or more views including:

a search editor view to enable parameters of a search of tags of objects captured by the capture system to be defined [see, for example, **FIGURE 11: #722 and the Specification at paragraph 56**], the capture system configured to intercept data from data streams, reconstruct the data, and store network transmitted objects according to a capture rule that defines which objects are to be captured by the capture system [see, for example, **the Specification at paragraphs 32-35, 41-42**], wherein each tag is associated with at least one captured object and includes relevant information that describes the at least one object [see, for example, **the Specification at paragraph 43**], and wherein the capture rule is part of a default rule set for the capture system configured to monitor network traffic and capture the at least one object [see, for example, **the Specification at paragraph 41**], and wherein the capture system is configured to store a document captured by the capture system according to the capture rule [see, for example, **the Specification at paragraph 42**], which identifies a first internet protocol (IP) address from which the document was sent and a second IP address associated with an intended destination of the document [see, for example, **Tables 1-2 of the Specification at paragraphs 43, 46**], and wherein after an initial search is generated it is scheduled to occur on a periodic basis such that a report is automatically sent to a network address of an

author of the initial search [see, for example, FIGURE 15: element #724, and the Specification at paragraphs 55, 65-67]; and

a capture rule view [see, for example, FIGURE 17: element #732] to enable parameters of the capture rule to be defined [see, for example, the Specification at paragraph 69-70].

27. A computer readable medium having stored thereon data representing instructions that, when executed by a processor, cause the processor **[see, for example, the Specification at paragraphs 71-72]** to perform operations comprising:

presenting a graphical user interface (GUI) **[see, for example, FIGURES 8-17: elements #706, #708, #710, etc. and the Specification at paragraphs 50-53]** for a capture system **[see, for example, FIGURES 2-3: element #22, and the Specification at paragraphs 28, 31-32]**, wherein the GUI comprises one or more views including:

a search editor view to enable parameters of a search of tags of objects captured by the capture system to be defined **[see, for example, FIGURE 11: #722 and the Specification at paragraph 56]**, the capture system configured to intercept data from data streams, reconstruct network transmitted objects, and store network transmitted objects according to a capture rule that defines which objects are to be captured by the capture system **[see, for example, the Specification at paragraphs 32-35, 41-42]**, wherein each tag is associated with at least one captured object and includes relevant information that describes the at least one object **[see, for example, the Specification at paragraph 43]**, and wherein the capture rule is part of a default rule set for the capture system configured to monitor network traffic and capture the at least one object **[see, for example, the Specification at paragraph 41]**, and wherein the capture system is configured to store a document captured by the capture system according to the capture rule **[see, for example, the Specification at paragraph 42]**, which identifies a first internet protocol (IP) address from which the document was sent and a second IP address associated with an intended destination of the document **[see, for example, Tables 1-2 of the Specification at paragraphs 43, 46]**, and wherein after an initial search is generated

it is scheduled to occur on a periodic basis such that a report is automatically sent to a network address of an author of the initial search [see, for example, **FIGURE 15: element #724, and the Specification at paragraphs 55, 65-67**]; and

a capture rule view [see, for example, **FIGURE 17: element #732**] to enable parameters of the capture rule to be defined [see, for example, the **Specification at paragraph 69-70**].

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Section 103 Rejection

The Examiner rejects Claims 1-3, 25 and 27-33 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2005/0021715 issued to Dugatkin (hereinafter "*Dugatkin*") in view of U.S. Patent No. 6,978,297 issued to Piersol (hereinafter "*Piersol*") and further in view of U.S. Patent No. 6,161,102 issued to Yanagihara (hereinafter "*Yanagihara*"). The Examiner also rejects Claims 4 and 30 under 35 U.S.C. §103(a) as being unpatentable over *Dugatkin* in view of *Piersol* in view of *Yanagihara* and in further view of U.S. Patent No. 7,185,192 issued to Khan (hereinafter "*Khan*"). The Examiner further rejects Claim 5 and 31 under 35 U.S.C. §103(a) as being unpatentable over *Dugatkin*, in view of *Piersol*, in view of *Yanagihara* and in further view of Microsoft Outlook 2000 © 1995-2000 (hereinafter "*Outlook*").

VII. ARGUMENT

A. Section 103 Rejection

The Examiner rejects Claims 1-3, 25 and 27-33 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2005/0021715 issued to Dugatkin (hereinafter "*Dugatkin*") in view of U.S. Patent No. 6,978,297 issued to Piersol (hereinafter "*Piersol*") and further in view of U.S. Patent No. 6,161,102 issued to Yanagihara (hereinafter "*Yanagihara*"). The Examiner also rejects Claims 4 and 30 under 35 U.S.C. §103(a) as being unpatentable over *Dugatkin* in view of *Piersol* in view of *Yanagihara* and in further view of U.S. Patent No. 7,185,192 issued to Khan (hereinafter "*Khan*"). The Examiner further rejects Claim 5 and 31 under 35 U.S.C. §103(a) as being unpatentable over *Dugatkin*, in view of *Piersol*, in view of *Yanagihara* and in further view of Microsoft Outlook 2000 © 1995-2000 (hereinafter "*Outlook*").

As a preliminary matter, Applicant is prepared to identify ten (or more) substantive problems associated with the Examiner's current 3-reference and 4-reference §103 rejections. In an effort to conserve the Board's valuable resources, Applicant will only highlight a handful of significant problems with the Examiner's current analysis.

Independent Claim 1 recites "...a search editor view to enable parameters of a search of tags of objects captured by the capture system to be defined, the capture system configured to intercept data from data streams, reconstruct the data, and store network transmitted objects according to a capture rule that defines which objects are to be captured by the capture system, wherein each tag is associated with at least one captured object and includes relevant information that describes

the at least one object, and wherein the capture rule is part of a default rule set for the capture system configured to monitor network traffic and capture the at least one object, and wherein the capture system is configured to store a document captured by the capture system according to the capture rule, which identifies a first internet protocol (IP) address from which the document was sent and a second IP address associated with an intended destination of the document, and wherein **after an initial search is generated it is scheduled to occur on a periodic basis such that a report is automatically sent to a network address of an author of the initial search...."**

First, nothing in *Dugatkin* discusses any type of capture rule, which outlines source and destination address information. Applicant is at a loss to even respond to the Examiner's citation to Fig. 3 of this *Dugatkin* reference. Nowhere in that Fig. 3 (nor in the associated descriptions of this illustration) is there any disclosure associated with IP addresses: much less two different IP addresses associated with the origination and the destination associated with a document sought to be transmitted over the network. In the most straightforward sense, the *Dugatkin* reference does not have the requisite intelligence to track information being sent by/to specific IP addresses.

In supporting the §103 rejection, the Examiner cites the following passage of *Dugatkin*:

therefore are part of the capture system], which identifies an internet protocol (IP) address from which the document was sent and a second IP address associated with an intended destination of the document (*fig. 3 is a block diagram of successive capture groups showing how the depth and granularity of network traffic data captured, collected and analyzed by the collectors 210 and the filters 212 may be increased in successive capture groups by the feedback controller 222. With successive refinement, a first capture group 320 may include all of the various types of transport protocols, also referred to as layer 3 data units, of all IP data units 310*) (para. [0048]) [referring to all IP data units implies that first, second and any subsequent IP addresses are captured and identified].

[See the Final Office Action mailed October 1, 2010: page 3.]

In essence, the *Dugatkin* reference is alluding to certain types of data being collected at various levels of the OSI model. Indeed, at the very passage being cited by the Examiner, the *Dugatkin* reference is discussing the ***transport protocols being used for filtering***. Mistakenly, the Examiner uses the term “IP data units” to somehow arrive at a capture rule that identifies a first IP address from which the document was sent and a second IP address associated with an intended destination of the document. Taking such sweeping liberties is simply improper in the context of offering sustainable §103 rejections. Moreover, the term ‘IP data units’ does not afford the Examiner a bridge to the limitation “...a capture rule that identifies a first IP address from which the document was sent and a second IP address associated with an intended destination of the document” as is recited in Independent Claim 1.

Moreover, this IP address information is not only associated with a capture rule, it is explicitly associated with ***document propagation***: something not accounted for in the *Dugatkin* reference. As a separate matter of patentability, this same capture rule (noticeably absent from *Dugatkin*) includes information associated with

whether *the corresponding document should be stored*. Stated differently, the same capture rule that is identifying which document is to be captured is also dictating whether that same document should be stored or discarded. None of this is provided in the Examiner's references.

Another distinct problem with the Examiner's proffered §103 rejections is that no reference discusses any type of *search scheduling to occur after an initial search is generated*, or how such searching would continue on a periodic basis. As an aside, no reference discusses **how a report would be automatically sent to a network address of an author of the initial search**.

It should also be noted that *the entire tag feature* of Independent Claim 1 is not accounted for in the Examiner's erroneous citation to the *Piersol* reference. More specifically, in the Final Office Action, the Examiner postulated:

However *Piersol* discloses tags of objects captured by the capture system to be defined (*the metadata file contains special information about the document from the capturing device*) (col. 8, lines 50-56), wherein each tag is associated with at least one captured object and includes relevant information that describes the at least one object (*a unique identifier, such as a serial number, may be assigned to each document and stored in the document's metadata file*) (col. 9, lines 65-67 and col. 10, lines 1-5) [These documents constitute data being intercepted from the streams of network data and these data as objects will be reconstructed when reached their destination]. *Piersol* teaching of tag modify the capture system of Dugatkin. Therefore, it would have been obvious to one having ordinary skill in the art at the

[See the Final Office Action mailed October 1, 2010: page 4.]

To pull apart this flawed analysis, the first point to understand is that according to Independent Claim 1, the tag can identify objects, where the objects can be part of the document. More specifically, Independent Claim 1 recites "... a

search editor view to enable parameters of a search of tags of objects captured by the capture system to be defined, the capture system configured to intercept data from data streams, reconstruct the data, and ***store network transmitted objects according to a capture rule*** that defines ***which objects are to be captured by the capture system...each tag is associated with at least one captured object and includes relevant information that describes the at least one object...."***

In contrast, the Examiner is citing a serial number for a document being stored. If by some strained logic Applicant equated a serial number to a tag, then where is the Examiner's support for any type of object, as is being recited by Independent Claim 1? If, on the other hand, the Examiner is equating the object to the serial number, then where is there Examiner support for the tags? Clearly, something is missing in this analysis.

Hence, there are three elements being recited in Independent Claim 1: tags, objects, and a document. In a best-case scenario, the Examiner has only found two of these elements. Unfortunately, the relationship between these two elements is not the same as what is found in Independent Claim 1. Even more problematic is the Examiner's assertion that a 'serial number' would be the equivalent of an object. Reading Independent Claim 1 closely undermines the Examiner's assumptions because ***network transmitted objects*** are stored according to a capture rule that defines which objects are to be captured in the first place. In direct contradiction to this, the serial numbers are not transmitted over the network, nor are they stored according to a capture rule that defines which serial numbers would be captured on the front end of a capture system.

Indeed, the *Piersol* reference ***teaches away*** from this feature of Independent Claim 1. The *Piersol* architecture labels documents with a serial number, whereas Independent Claim 1 is outlining a capture system in which ***network transmitted objects are being captured based on a capture rule***. There are four or five additional reasons why the current claim set is allowable; however, rather than further burden the Board, Applicant will truncate this analysis at this juncture.

All of the aforementioned limitations are provided for in Independent Claim 1, but no reference of record includes such elements. For at least these reasons, Independent Claim 1 is allowable over any cited reference, or combination of references. Independent Claim 27 recites limitations similar, but not identical, to those recited in Independent Claim 1. Therefore, Independent Claim 27 is also allowable, for example, for the same reasons as identified above. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

For at least these reasons, all of the pending claims have been shown to be allowable as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these claims. In view of the above, and for other reasons clearly apparent, Appellant respectfully submits that the Application is in condition for allowance.

The appropriate large entity Appeal Brief fee for \$540.00 is being paid concurrently herewith via the Electronic Filing System (EFS) by way of Deposit Account No. 50-4889 authorization. Therefore, Appellant believes that no other fee is due. If this is incorrect, please apply any other charges or credits to deposit account 50-4889 and reference Attorney Docket No. 06897.P006.

Respectfully submitted,

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VIII. CLAIMS APPENDIX

1. (Rejected) A method comprising:

presenting a graphical user interface (GUI) for a capture system, wherein the GUI comprises one or more views including:

a search editor view to enable parameters of a search of tags of objects captured by the capture system to be defined, the capture system configured to intercept data from data streams, reconstruct the data, and store network transmitted objects according to a capture rule that defines which objects are to be captured by the capture system, wherein each tag is associated with at least one captured object and includes relevant information that describes the at least one object, and wherein the capture rule is part of a default rule set for the capture system configured to monitor network traffic and capture the at least one object, and wherein the capture system is configured to store a document captured by the capture system according to the capture rule, which identifies a first internet protocol (IP) address from which the document was sent and a second IP address associated with an intended destination of the document, and wherein after an initial search is generated it is scheduled to occur on a periodic basis such that a report is automatically sent to a network address of an author of the initial search; and

a capture rule view to enable parameters of the capture rule to be defined.

2. (Rejected) The method of claim 1, wherein the parameters definable through the search editor view include both indexed and non-indexed search criteria.

3. (Rejected) The method of claim 1, wherein the definable search editor view parameters include one or more of a plurality of search criteria, the search criteria comprising:

- a content type,
- a protocol,
- a keywords, and
- a word pattern.

4. (Rejected) The method of claim 3, wherein the search criteria further include a source address, a destination address, a size range, and a temporal range.

5. (Rejected) The method of claim 1, wherein the definable parameters of the search editor view specify one or more of a plurality of search criteria, the search criteria comprising:

- an email source,
- an email destination,
- an email carbon copy,
- an email subject, and
- message keywords.

6-21. (Cancelled)

22. (Withdrawn) A capture system comprising:
- a packet capture module to extract data packets from a data stream;
 - an object assembly module to reconstruct a flow of at least one object from the extracted data packets;
 - an object classification module to classify the at least one object and to deconstruct the flow into at least one object;
 - an object store module to store the at least one object; and
 - a graphical user interface (GUI) module to provide a GUI including a search view to allow for the authoring, editing, scheduling, and viewing of searches of stored tags.
23. (Withdrawn) A method comprising:
- capturing data packets from a data stream;
 - reconstructing said data packets into a copy of an original object;
 - determining if the copy of the original object should be stored based on a capture rule;
 - generating a tag for the copy of the original object;
 - storing the copy of the original object and the tag if it is determined that the copy of the original object should be stored based on the capture rule;
 - discarding the copy of the original object if it is determined that the copy of the original object should not be stored based on the capture rule; and
 - generating a graphical user interface (GUI), the GUI including a search view to allow for the authoring, editing, scheduling, and viewing of searches of stored tags.

24. (Withdrawn) The method of claim 23, further comprising:
discarding the tag if it is determined that the copy of the original object should not be stored based on the capture rule.
25. (Rejected) The method of claim 1, wherein the search is of tags of stored objects.
26. (Cancelled)
27. (Rejected) A computer readable medium having stored thereon data representing instructions that, when executed by a processor, cause the processor to perform operations comprising:
presenting a graphical user interface (GUI) for a capture system, wherein the GUI comprises one or more views including:
a search editor view to enable parameters of a search of tags of objects captured by the capture system to be defined, the capture system configured to intercept data from data streams, reconstruct network transmitted objects, and store network transmitted objects according to a capture rule that defines which objects are to be captured by the capture system, wherein each tag is associated with at least one captured object and includes relevant information that describes the at least one object, and wherein the capture rule is part of a default rule set for the capture system configured to monitor network traffic and capture the at least one object, and wherein the capture system is configured to store a document captured by the capture system according

to the capture rule, which identifies a first internet protocol (IP) address from which the document was sent and a second IP address associated with an intended destination of the document, and wherein after an initial search is generated it is scheduled to occur on a periodic basis such that a report is automatically sent to a network address of an author of the initial search; and

a capture rule view to enable parameters of the capture rule to be defined.

28. (Rejected) The computer readable medium of claim 27, wherein the parameters definable through the search editor view include both indexed and non-indexed search criteria.

29. (Rejected) The computer readable medium of claim 27, wherein the definable search editor view parameters include one or more of a plurality of search criteria, the search criteria comprising:

- a content type,
- a protocol,
- a keyword, and
- a word pattern.

30. (Rejected) The computer readable medium of claim 29, wherein the search criteria further include a source address, a destination address, a size range, and a temporal range.

31. (Rejected) The computer readable medium of claim 27, wherein the definable parameters of the search editor view specify one or more of a plurality of search criteria, the search criteria comprising:

- an email source,
- an email destination,
- an email carbon copy,
- an email subject, and
- message keywords.

32. (Rejected) The computer readable medium of claim 27, wherein the search is of tags of stored objects.

33. (Rejected) The method of claim 1, wherein the relevant information that describes the at least one object includes one or more of a plurality of fields, the fields comprising:

- a protocol,
- an instance,
- a content type,
- an encoding,
- a capture rule,
- an object signature, and
- a tag signature.

34. (Cancelled)

IX. EVIDENCE APPENDIX

Appellants are not submitting any evidence at this time.

X. RELATED PROCEEDINGS APPENDIX

There are no related proceedings to this action.